

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRÉLIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P204022 - El/ef	FOR FURTHER ACTION	
See item 4 below		
International application No. PCT/CH2004/000019	International filing date (<i>day/month/year</i>) 15 January 2004 (15.01.2004)	Priority date (<i>day/month/year</i>) 22 January 2003 (22.01.2003)
International Patent Classification (IPC) or national classification and IPC 7 A63B 23/04, 23/00, A61H 1/02		
Applicant DENOTH, Viktor		

<p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																									
<p>3. This report contains indications relating to the following items:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> <td style="width: 15%; text-align: center; padding: 5px;">Box No. I</td> <td style="width: 70%; padding: 5px;">Basis of the report</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. II</td> <td style="padding: 5px;">Priority</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. III</td> <td style="padding: 5px;">Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. IV</td> <td style="padding: 5px;">Lack of unity of invention</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. V</td> <td style="padding: 5px;">Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. VI</td> <td style="padding: 5px;">Certain documents cited</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. VII</td> <td style="padding: 5px;">Certain defects in the international application</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. VIII</td> <td style="padding: 5px;">Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input checked="" type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p>																									

<p>Date of issuance of this report 02 September 2005 (02.09.2005)</p>	
<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 740 14 35</p>	<p>Authorized officer Yolaine Cussac</p> <p>Telephone No. +41 22 338 70 80</p>

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference P204022 - El/ef		Date of mailing (day/month/year) See form PCT/ISA/210
International application No. PCT/CH2004/000019		International filing date (day/month/year) 15-01-2004
International Patent Classification (IPC) or both national classification and IPC A63B 23/04, 23/00, A61H 1/02		Priority date (day/month/year) 22-01-2003
Applicant DENOTH, Viktor		

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input checked="" type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Date of completion of this opinion	Authorized officer
Facsimile No.	Telephone No.	

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/CH2004/000019

Box No. I Basis of the report

1. With regard to the language, this opinion has been established on the basis of:
 the international application in the language in which it was filed
 the translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rule 12.3(a) and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material
 on paper
 in electronic form
 - c. time of filing/furnishing
 contained in the international application as filed
 filed together with the international application in electronic form
 furnished subsequently to this Authority for the purposes of search
3. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
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Box No. II Priority

1. The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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International application No.
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>9</u>	YES
	Claims <u>1-8, 10, 11</u>	NO
Inventive step (IS)	Claims _____	YES
	Claims <u>1-11</u>	NO
Industrial applicability (IA)	Claims <u>1-11</u>	YES
	Claims _____	NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: US-A-2 950 120 (STEWART HUBERT L), 23 August 1960
(1960-08-23)

D2: US-A-5 584 786 (ALMEDA THOMAS M), 17 December 1996
(1996-12-17) (cited in the application)

D3: US-A-4 927 139 (TALTRE ABRAHAM K), 22 May 1990
(1990-05-22)

2. The application fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel (PCT Article 33(2)).

Document D1 discloses (the references in parentheses are to D1) a device for exercising the human body, or an exercise device (see column 1, line 22), consisting of a curved planar element (10) with a substantially rectangular outline (see figure 4), wherein the curvature or bend includes an angle of at least around 30°.

The subject matter of claim 1 therefore lacks novelty.

2.2 Document D2 also discloses a device for exercising the human body (see column 1, lines 13 to 18), with a curved planar

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INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/CH2004/000019

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

element (30) and a rectangular outline (see figure 2), wherein the curvature includes an angle of at least 30°.

The subject matter of claim 1 therefore also lacks novelty over D2.

2.3 Document D3 also discloses an exercise device (10), with a curved planar element (32) and a rectangular outline (see figure 2), wherein the curvature includes an angle of at least 30°.

The subject matter of claim 1 therefore also lacks novelty over D3.

3.1 Dependent claims 2 to 8, 10 and 11 do not contain any features that meet the PCT requirement of novelty. See, for example, the following references:

- D1, figure 1 (for claims 2 to 4 and 11)
- D1, column 1, lines 67 to 70 (for claim 5)
- D2, figure 6 and column 6, lines 25 to 47 (for claims 6 and 7)
- D2, column 6, line 32 (for claim 8)
- D2, figure 1 (for claim 10)

3.2 Dependent claim 9 relates to a minor structural modification to the exercise device of claim 1, which does not go beyond what a person skilled in the art would normally do on the basis of routine considerations, especially since the resulting advantages are readily predictable.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The parameter specified in claim 1 for the curvature or bend is not clear. It is also not apparent from the description how or at what point the angle should be measured in order to check the curvature.